This, it seems, should raise a constructive trust in favor of the grantor. It seems analogous to the principle that one with knowledge of a special limitation on an agent's apparent authority is bound by the limitation;[7] or to the right of an accommodating party upon negotiable paper to withdraw his accommodation and escape liability to all taking with notice;[8] or to the right of a majority of a partnership to protect itself by notice of its will to third parties.[9] If notice be constructive, the third party may protect himself by ordinary care, and the contrary rule would be extremely hard upon a principal with a dishonest agent to whom he cannot get actual notice of revocation.

If the third party, who has knowledge of the attempted revocation, obtains a contract from the agent, it seems the same equities would arise as in the case where he obtains a chattel or title to land under similar circumstances. No court would grant specific performance of a contract so obtained, and in the present case it seems that full equitable relief should have been given.

THE CONSTITUTIONALITY OF JUVENILE COURT ACTS. — In a recent decision, which is of especial interest and importance since it is one of the first to consider this question, the Supreme Court of Illinois declared unconstitutional one of the most important provisions of the state Juvenile Court Act.[1] The court held that a father who could and did provide a good home for his child had been deprived of his right to the child's custody without due process of law, because the latter had been committed to a home for boys during his minority merely for committing two criminal assaults. *People* v. *McLain*, 38 Chi. Leg. N. 166 (Sup. Ct. Ill., Dec. 20, 1905). The state undoubtedly has the right to deprive the father of the custody of his child by such proceeding as this if the father is not a fit and proper person to rear his children.[2] The validity of the present decision may be doubted on the simple ground that the fact that the child has committed a criminal assault shows that the father is not able to care for it properly. While the father might be able to control an ordinary boy, his failure to develop this boy into a law-abiding citizen is at least evidence of his incompetence. It is therefore questionable if the action of the juvenile court is so unreasonable as to authorize the court to declare it unconstitutional. But there is another objection to the case which seems to be conclusive. The reasoning of the court is premised upon the proposition that the father has a vested property right to the custody of his children. It is believed, however, that this parental right is merely a privilege granted to the parent by the state, which may consequently be withheld by the state if it sees fit.[3] It has seen fit to allow the father the privilege of caring for his children, because the natural affection that exists between them ordinarily renders the father the best person to exercise this control. But if the state

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[7] See Tiffany, Agency 180, 183.

[8] Dogan *v.* Dubois, 2 Rich. Eq. (S. C.) 85.

[9] See Munroe *v.* Conner, 15 Me. 178; Clarke *v.* State V. R. Co., 136 Pa. St. 408.

[1] See *Ex parte* Loving, 178 Mo. 194, sustaining a similar statute. See also People *ex rel.* Zeese *v.* Masten, 79 Hun (N. Y.) 580.

[2] Reynolds *v.* Howe, 51 Conn. 472; Cincinnati House of Refuge *v.* Ryan, 37 Oh. St. 197.

[3] See Tiedeman, Limitations of Police Power, §§ 166 *et seq.*

desired, it could transfer the custody of the children to whomsoever it chose. The decisions amply sustain this position. Thus a statute enacting that the custody of children under seven years of age should belong to the mother in case the parents separated has been held constitutional,[4] and furthermore, in determining who shall care for a minor, courts of chancery or probate courts, whenever a controversy arises, exercise a sound discretion, and frequently deprive the father of his custody if it seems wise, although he may be entirely competent to care for him.[5]

It was further argued by counsel that, as the child had been deprived of his liberty without a jury trial, the constitutional provision guaranteeing jury trial had been violated. The proceeding is certainly not an infringement of the provision, for this is not in any aspect a criminal proceeding. The judgment is that the child is delinquent and as such needs the care of the state. The whole purpose of the commitment is the reformation of the child and not his punishment. Furthermore, the child is not even being deprived of his "liberty," as that word is used in the constitutions. The state is exercising parental restraint, a restraint which is perhaps more severe than that usually exercised by a father, because of the peculiar viciousness of the child. The imposition of such restraint has always been legitimate. Were there any doubt of the validity of this reasoning, it is resolved by an examination of the cases, which fully support it.[6]

ESTOPPEL OF TENANT TO DENY LANDLORD'S TITLE. — The present doctrine of estoppel between landlord and tenant, first enunciated some hundred and fifty years ago,[1] is purely equitable and essentially different from the old legal estoppel by deed,[2] which expired with the term granted by the deed.[3] In giving up possession of land to a tenant, the owner of course relies on the lessee's recognition of him as owner of the land; and to force the lessor in any action for rent or possession, whether before or after the term has ended, to prove his title would work hardship on him, and tend to discourage landowners from parting with possession of their property. Modern law in such cases protects the landlord by raising, from the permissive occupation of the tenant, an equitable estoppel to deny the landlord's title.[4]

Where the lessee is already in possession of the land demised to him, it cannot be urged that the landlord has given him possession of the land, and on this reasoning it has been held that an estoppel does not arise.[5] It is argued that not only is the lessor not worse off, but that he is even in a better position, since he has gained rent, and, in the event of a controversy, a *prima facie* case against the occupant. But the great majority of American

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[4] Bennet *v.* Bennet, 13 N. J. Eq. 114.

[5] Jones *v.* Darnall, 103 Ind. 569. For a careful review of the decisions see Hurd, Habeas Corpus 461 *et seq.*

[6] *Ex parte* Nichols, 110 Cal. 651; Prescott *v.* State of Ohio, 19 Oh. St. 184; *contra*, People *ex rel.* O'Connell *v.* Turner, 55 Ill. 280. See, however, Petition of Ferrier, 103 Ill. 367.

[1] Doe *v.* Pegge, 1 T. R. 758, notes.

[2] Lit. § 58.

[3] Co. Lit. 47 b.

[4] See 2 Taylor, Landlord and Tenant, 9th ed., §§ 629, 705.

[5] Franklin *v.* Merida, 35 Cal. 558.